

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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WINNER'S SUN PLASTIC & ELECTRONIC  
(SHENZHEN) CO. LTD., a Chinese limited  
company,

Plaintiff,

v.

THE PARTNERSHIPS and  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE "A,"

Defendants.

Case No. 2:19-cv-00852-GMN-EJY

**ORDER**

Before the Court is Vetora LLC dba BatteryGalaxy ("Vetora")'s Motion to Set Aside Default (ECF No. 56). The Court has considered the Motion and Plaintiff's Notice of Non-Opposition (ECF No. 58). The Court finds as follows.

In its Motion, Vetora establishes the facts underlying its failure to first know, and then understand, that it was named as a defendant in Plaintiff's action. ECF No. 57 (Decl. of Brigham Budd in Support of Motion to Set Aside Default). Vetora also successfully applies the law that allows the Court to set aside default. ECF No. 56 at 4-5.<sup>1</sup> Specifically, Vetora timely sought relief from the default previously entered; Plaintiff agrees that default may be set aside thereby establishing Plaintiff does not believe it will be prejudiced if the Court does so; Plaintiff and Vetora are engaged in good faith negotiations in an attempt to resolve their dispute amicably; and, Vetora can establish that actual damages to Plaintiff, if any, are less than \$4,000. *Id.* at 5. Vetora also offers the Court that it has meritorious defenses to Plaintiff's action. *Id.* at 5-6. Finally, Vetora establishes that non-culpable conduct led to its failure to timely respond to Plaintiff's Complaint. *Id.* at 6.

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<sup>1</sup> In determining whether to set aside a default, the "court should consider whether: (1) the plaintiff would be prejudiced by setting aside the default; (2) the defendant has a meritorious defense; and (3) the defendant's culpable conduct led to the default." *Id.* (citing *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984)).

1 Based on the unopposed representations by Vetora as applied to the law, which clearly  
2 establish the Court may properly set aside the default entered, and given Plaintiff's non-opposition  
3 to setting aside default, the Court HEREBY ORDERS that Vetora's Motion to Set Aside Default  
4 (ECF No. 56) is GRANTED.

5 IT IS FURTHER ORDERED that the Clerk of Court shall separate and electronically file  
6 the Answer and Demand for Jury Trial attached to ECF No. 56.

7 DATED: May 28, 2020

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10 ELAYNA J. YOUCHAK  
11 UNITED STATES MAGISTRATE JUDGE  
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